

MODULE I STANDARD CONDITIONS

Module I of the permit sets forth the standard conditions that are applicable to all hazardous waste management facilities. The regulations applicable to permitting, §§260 through 264, 268, and 270, of Title 40, Code of Federal Regulations, have been incorporated by reference into Sections 2 through 7, and 9 through 11, respectively, of the State Legislative Rules, Title 33, Series 20, Hazardous Waste Management Rule (HWMR).

(NOTE: The regulatory and/or statutory citations in parentheses are incorporated into the permit by reference.)

I-A EFFECT OF PERMIT (40 CFR §§270.4, 270.30(g), and §22-18-8(a) of the West Virginia Code)

The Permittee is allowed to manage hazardous waste in accordance with the conditions of the West Virginia Hazardous Waste Management Permit (called the RCRA Permit or Permit). Any management of hazardous waste not authorized by this RCRA permit is prohibited, unless otherwise expressly or specifically exempted by law.

Compliance with the RCRA permit during its term constitutes compliance, for purposes of enforcement, with the Hazardous Waste Management Act (Article 18, Chapter 22 of the West Virginia Code), (hereinafter, the ACT), except for those requirements not included in the permit which: 1) become effective by statute; or 2) are promulgated under 40 CFR §268, restricting the placement of hazardous waste in, or on the land; or 3) are promulgated under 40 CFR §264, regarding leak detection systems for new, replacement, and lateral expansions of surface impoundment, waste pile, and landfill units which will be implemented through the procedures of 40 CFR §270.42, Class 1 permit modifications; or 4) are promulgated under Subparts AA, BB, or CC of 40 CFR §265, limiting air emissions.

Issuance of this permit does not convey property rights of any sort or any exclusive privilege; nor does it authorize any injury to persons or property, any invasion of other private rights, or any infringement of State or local law or regulations. Compliance with the terms of this permit does not constitute a defense to any order issued or any action brought by the U. S. Environmental Protection Agency (US EPA) under Sections 3008(a), 3008(h), 3013, or 7003 of RCRA; Sections 104, 106(a), or 107, of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. §9601 et. seq., commonly known as CERCLA); or any other law providing for protection of public health or the environment.

I-B PERMIT ACTIONS (40 CFR §270.30(f))

This permit may be modified, revoked and reissued, or terminated for cause, as specified in 40 CFR §§270.41, 270.42, and 270.43. This permit may also be reviewed and modified by the West Virginia Department of Environmental Protection, Division of Water and Waste Management (DWWM), consistent with 40 CFR §270.41, to include any terms and conditions determined necessary to protect human health and the environment, and to achieve compliance with §270.32(b)(2). The filing of a request for a permit modification, revocation and reissuance, or termination, or the notification of planned changes, or anticipated noncompliance on the part of the Permittee does not stay the applicability or enforceability of any permit condition.

I-C SEVERABILITY

The provisions of this permit are severable, and if any provision of this permit, or if the application of any provision of this permit, to any circumstance, is held invalid, the application of such provision to other circumstances and the remainder of this permit shall not be affected thereby.

I-D DEFINITIONS

For the purpose of this Permit, terms used herein shall have the same meaning as those set forth in the Act, HWMR, and 40 CFR §§260 through 264, 268, 270, and 279, which have been incorporated by reference, unless this permit specifically states otherwise. Where terms are not otherwise defined, the meaning associated with such terms shall be as defined by a standard dictionary reference or the generally accepted scientific or industrial meaning of the term. The following definitions also apply to this permit.

D-1 "Director" means the Director of the Division of Water and Waste Management, Department of Environmental Protection;

D-2 "Days" mean except as otherwise provided herein, calendar days;

D-3 "Hazardous Constituent" means any constituent identified in Appendix VIII of 40 CFR §261, or any constituent identified in Appendix IX of 40 CFR §264;

D-4 "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment.

I-E FAILURE TO SUBMIT RELEVANT AND/OR ACCURATE INFORMATION

Whenever the Permittee becomes aware that it failed to submit any relevant facts in the permit application, or submitted incorrect information in a permit application or in any report to the Director, DWWM, the Permittee shall notify the Director of such failure within seven (7) calendar days of becoming aware of such deficiency or inaccuracy. The Permittee shall submit the correct or additional information to the Director within thirty (30) days of becoming aware of the deficiency or inaccuracy (40 CFR §270.30(l) (11) and 270.32(b)). Failure to submit the information required in this permit or misrepresentation of any submitted information is grounds for termination of this permit (40 CFR §270.43).

I-F DUTIES AND REQUIREMENTS

F-1 Duty to Comply (40 CFR §270.30(a))

The Permittee must comply with all terms and conditions of this permit. An exception may be granted via an emergency permit issuance. (See 40 CFR §270.61). Any permit non-compliance, except under the terms of an emergency permit, constitutes a violation of the HWM Act and is subject to enforcement action. An enforcement action may include permit termination, revocation, modification, and/or reissuance.

F-2 Duty to Re-apply (40 CFR §270.30(b) and §270.10(h))

If the Permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the Permittee must apply for a permit renewal within 180 days prior to the expiration date of this permit.

F-3 Permit Duration

- a. This permit shall be effective for a fixed term not to exceed 10 years. The permit shall be modified as necessary as provided in 40 CFR §270.41.
- b. The terms and conditions of this permit will continue in full effect beyond the permit's expiration date only if the Permittee has timely submitted a complete renewal application to the Director (see Subpart B of 40 CFR §270).

F-4 Need To Halt or Reduce Activity Not a Defense (40 CFR §270.30(c))

The need to halt or reduce the permitted activity in order to maintain compliance with the conditions of this

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permit shall not be a defense for the Permittee in an enforcement action.

F-5 Duty to Mitigate (40 CFR §270.30(d))

In the event of non-compliance with a permit condition, the Permittee shall take all necessary steps to minimize releases to the environment and shall carry out such measures as are necessary to prevent significant adverse impact on human health or the environment.

F-6 Proper Operation and Maintenance (40 CFR §270.30(e))

The Permittee shall, at all times, properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Permittee to achieve compliance with the terms and conditions of this permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality control/quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

F-7 Duty to Provide Information (40 CFR §270.30(h) and §264.74)

The Permittee shall furnish to the Director within a time period, as designated by the Director, any relevant information which the Director may request in order to determine whether a cause exists for modifying, revoking, reissuing, or terminating this permit. The Permittee shall also furnish to the Director, upon request, copies of the records required to be kept by the Permittee under provisions of this permit.

F-8 Inspection and Entry (40 CFR §270.30(i))

The Permittee shall allow the Director, or his/her authorized representative, upon presentation of credentials and other documents as may be required by law, to:

- a. Enter, at necessary times during working hours, the permitted premises where a regulated facility or activity is located or conducted, or where records required by conditions of this permit are kept under the conditions of this permit as referenced by 40 CFR §270.30(i)(1);
- b. Have access to and copy any records kept under the conditions of this permit as referenced by 40 CFR §270.30(i)(2);
- c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit as referenced by 40 CFR §270.30(i)(3); and
- d. Sample or monitor, at reasonable times, for the purposes of assuring permit compliance, and as authorized by RCRA, any wastes substances or parameters related to the permit.

F-9 Monitoring and Record-keeping (40 CFR §270.30(j), §264.73, and §264.74)

- a. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
- b. A copy of each report required by this permit, and records of all data used to complete the application for this permit, will be kept for a period of at least three (3) years from the date of the sample, measurement, report, certification, or application. This period may be extended by a request from the Director at any time.
- c. The Permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring

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instrumentation, copies of all reports required by this permit, the certification required by 40 CFR §264.73(b)(9), and records of all data used to complete the application for this permit, for a period of at least three years from the date of the sample, measurement, report, certification, or application. This period may be extended, by request of the Director, at any time.

F-10 Reporting Planned Changes (40 CFR §270.30(l)(1))

The Permittee shall give notice to and receive approval from the Director of any planned physical alterations or additions to the permitted facility. Permitting of these alterations or additions to the facility shall be in accordance with the permit modification procedures of 40 CFR §270.41 or §270.42.

F-11 Transfer of Permits (40 CFR §§270.30(l)(3), 270.40(a), and 264.12(c))

This permit may be transferred by the Permittee to a new owner or operator only after providing notice to the Director, and only if the permit is modified, or revoked and reissued, pursuant to 40 CFR §§270.40(b), 270.41(b)(2), or 270.42(a). Before transfer of ownership or operation of the facility during its operating life, the Permittee shall notify the new owner or operator, in writing, of the requirements of 40 CFR §§264 and 270 (including all applicable corrective action requirements in accordance with 40 CFR §264.100), and shall provide a copy of the RCRA permit to the new owner or operator.

F-12 Compliance Schedule (40 CFR §270.30(l)(5))

Any progress reports, including interim and final requirements contained in the compliance schedule of this permit shall be submitted to the Director, no later than fourteen (14) days following each scheduled date.

F-13 Immediate Reporting (40 CFR §264.56(d)(1) and (2))

In accordance with Section G of the permit application, the facility's emergency coordinator will immediately report to local authorities and the DEP if the facility has had a release, fire, or explosion which could threaten human health and the environment, outside the facility. The emergency report will be prepared as described in Section G.4.a. of the permit application.

F-14 Twenty-four (24) Hour Reporting (40 CFR §§270.30(l)(6) and 270.33)

- a. The Permittee shall immediately report to the Director any events that may endanger human health and/or the environment outside the facility. Any such information shall be reported orally no later than twenty-four (24) hours from the time the Permittee becomes aware of the circumstances.

This emergency release report shall, at a minimum, include the following:

- (1) Information concerning the release of any hazardous waste which may endanger the public drinking water supplies; and
- (2) Information concerning the release or discharge of any hazardous waste, or a fire and/or explosion at the facility, which could threaten human health and/or the environment outside the facility. The description of the occurrence and its cause shall include:
 - a. Name, address, and telephone number of the owner or operator;
 - b. Name, address, and telephone number of the facility;
 - c. Date, time, and type of incident;
 - d. Name and quantity of material(s) released;
 - e. The extent of injuries, if any;

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- f. An assessment of actual or potential hazard(s) to human health and/or the environment outside the facility, where applicable, and
 - g. An estimate of the quantity and disposition of recovered material that resulted from the release.
- b. A written submission shall also be provided to the Director, within fifteen (15) days from the time when the Permittee becomes aware of the circumstances. The written submission shall contain:
 - (1) A description of the non-compliance and its cause;
 - (2) The period(s) of non-compliance (including exact dates and times);
 - (3) Steps taken to minimize impact on the human health and the environment;
 - (4) Whether the non-compliance has been corrected, and if not, the anticipated time it is expected to continue; and
 - (5) Steps taken or planned to be taken to reduce, eliminate and prevent recurrence of such non-compliance.

F-15 Other Non-compliance (40 CFR §270.30(l)(10))

The Permittee shall report all other instances of non-compliance not otherwise required to be reported, as listed in provisions F-13 and F-14 hereinabove, within thirty (30) days of the time when the Permittee becomes aware of the non-compliance. The reports shall contain the information listed in Condition F-14.

F-16 Submittal of Reports or Other Information (40 CFR §§270.30(l)(7), (8), (9) and 270.31)

All reports or other information as required to be submitted to the Director pursuant to this permit shall be sent to:

Original
Director

West Virginia Department of Environmental Protection
Division of Water and Waste Management
601- 57th Street
Charleston, WV 25304

Two (2) Copies

West Virginia Department of Environmental Protection
Division of Water and Waste Management
601- 57th Street
Charleston, WV 25304
ATTN:
Hazardous Waste Permitting Unit

One (1) Copy

West Virginia Department of Environmental Protection
Division of Water and Waste Management
601- 57th Street
Charleston, WV 25304
ATTN:
Environmental Enforcement

I-G BIENNIAL REPORTS

Pursuant to 40 CFR §264.75, the Permittee must prepare and submit a single copy of a biennial report to the Director, DWWWM, by March 1, of each even numbered year, or as approved by the Director DWWWM. The biennial report must be submitted on EPA form 8700-13B. The report must cover facility activities during the previous calendar year and must include:

- G-1 The EPA identification number, name, and address of the facility;
- G-2 The calendar year covered by the report;
- G-3 For off-site facilities, the EPA identification number of each hazardous waste generator from which the facility received a hazardous waste during the year; for imported shipments, the report must give the name and address of the foreign generator;
- G-4 A description and the quantity of each hazardous waste the facility received during the year. For off-site facilities, this information must be listed by EPA identification number of each generator;
- G-5 The method of treatment, storage, or disposal for each hazardous waste;
- G-6 The most recent closure cost estimate under §264.142, and, for disposal facilities, the most recent post-closure cost estimate under §264.144; and,
- G-7 The certification signed by the owner or operator of the facility or his authorized representative.

I-H WASTE MINIMIZATION REPORT

H-1 Pursuant to 40 CFR §264.75(h), the Permittee must prepare and submit a single copy of a waste minimization report to the Director, DWWWM, by March 1, of each even numbered year or as approved by the Director DWWWM. The report shall include a description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated.

H-2 Annually, Permittee shall submit a copy of the certification maintained under 40 CFR §264.73(b)(9) to the Director, DWWWM. The certification should detail the on-going 'Waste Minimization Program' in place and should be submitted no later than the first week of April every year.

I-I SIGNATORY REQUIREMENT

- I-1 All reports and/or other information submitted to the Director shall be signed and certified in accordance with 40 CFR §270.11.
- I-2 A new authorization statement satisfying the requirements of all the applicable regulations must be prepared and submitted to the Director prior to, or as attachment to, a report, requested information, or an application for a permit modification if an authorization is no longer accurate because:
 - a. a different individual or position has been assigned the responsibility for the overall operation of the facility, or
 - b. a new individual or position has been assigned the responsibility for the compliance with environmental laws and permits.

I-J CONFIDENTIAL INFORMATION

In accordance with Section 11.18.b and c. of the HWMR, any information submitted to the Director, DWWWM, pursuant to this permit, may be claimed as confidential by the submitter. Any such claim must be asserted at
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the time of submission in the manner prescribed in Section 11.18.b. and c. of the HWMR.

If no claim is made at the time of submission, the DWWM shall make the information available to the public. If a claim is asserted, the information shall be treated in accordance with the procedures in Section 11.18 of the HWMR.

I-K DOCUMENTS TO BE MAINTAINED AT THE FACILITY

- K-1 The Permittee shall maintain all records required by 40 CFR §264.73, including the following documents and all amendments, revisions, and modifications to these documents until closure is completed and certified by an independent registered professional engineer at the facility.
- a. Waste Analysis Plan as required by 40 CFR §264.13 and as specified in Section II-B-2 of this permit; and,
 - b. Operating Record as required by 40 CFR §264.73, and this permit.
- K-2 The Permittee shall record and maintain the following information in the operating record until closure of the facility:
- a. Records and results of waste analyses performed as specified in 40 CFR §§264.13, 264.17, 264.314, 264.341, 264.1034, 264.1063, and 264.1083.
 - b. Summary reports and details of all incidents that require implementing the contingency plan as specified in 40 CFR §264.56(j);
 - c. Records and results of inspections as required by 40 CFR §264.15(d) (this data needs to be kept for only three (3) years).
 - d. Monitoring, testing, or analytical data, and corrective action where required by 40 CFR §264, subpart F and §§264.222, 264.223, 264.226, and §§264.1082 through 264.1090.
 - e. All closure cost estimates under 40 CFR §264.142 and all post-closure cost estimates under 40 CFR §264.144.
- K-3. Corrective action reports and records must be maintained for at least three (3) years after all corrective action activities have been completed.

I-L DISCLOSURE IN DEED

Pursuant to Section 21 of the HWMA and Section 12 of the HWMR, the Permittee shall make a notation on the deed or lease to the facility property, or on some other instrument that is normally examined during title search, that will, in perpetuity notify any potential purchaser that the land has been used to manage hazardous waste. Such disclosure shall describe the location upon said property, identifying the type and quantity of hazardous waste and the method of storage, treatment, or disposal with respect to such waste.

I-M LAND DISPOSAL REQUIREMENTS

M-1 GENERAL CONDITIONS

- a. The Permittee shall comply with all applicable self-implementing requirements of 40 CFR §268, and all applicable land disposal requirements which become effective by statute.
- b. A mixture of any restricted waste with non-restricted waste(s) is a restricted waste under 40 CFR §268.

- c. Except as otherwise provided by 40 CFR §268, the Permittee shall not in any way dilute a restricted waste or the residue from treatment of a restricted waste as a substitute for adequate treatment to achieve compliance with 40 CFR §268, Subpart D, to circumvent the effective date of a prohibition imposed by 40 CFR §268.3.
- d. Pursuant to 40 CFR §268.7, the Permittee shall prepare and maintain a current list of the hazardous waste codes handled by the facility that are identified in 40 CFR §268, Subparts B and C. The list shall include these waste codes, and any associated treatment standards, and shall be updated through the inclusion of new treatment standards, as promulgated or amended. This list shall be provided to the WV DEP, DWWWM representatives, or their designees, upon request.

M-2 TESTING AND RELATED REQUIREMENTS

- a. The Permittee must determine if the waste must be treated before being disposed in accordance with 40 CFR §268.7(a), any waste generated at the facility, to determine if the waste is restricted from land disposal.
- b. For restricted wastes with treatment standards expressed as concentrations in the waste, as specified in 40 CFR §268.40, the Permittee shall test the wastes or waste treatment residues, or extracts of such residues developed using the test Method 1311 described in US EPA Publication SW 846 and referenced in Appendix II of 40 CFR §261 (Toxicity Characteristic Leaching Procedure, or TCLP) to assure that the wastes or waste treatment residues or extracts meet the applicable treatment standards of 40 CFR §268, Subpart D. Such testing shall be performed as required by 40 CFR §264.13.
- c. A restricted waste for which a treatment technology is specified under 40 CFR §§268.40 and 268.42(a) may be land disposed after it is treated using that specified technology or an equivalent treatment method approved under the procedures set forth in 40 CFR §268.42(b).
- d. For restricted wastes with treatment standards expressed as concentrations in the waste, as specified in 40 CFR §268.40, the Permittee shall test the wastes or waste treatment residues (not an extract of such residues) to assure that the wastes or waste treatment residues meet the applicable treatment standards of 40 CFR §268, Subpart D. Such testing shall be performed as required by 40 CFR §264.13.
- e. The Permittee shall comply with all the applicable notification, certification, and record keeping requirements described in 40 CFR §268.7(a) and (b).

M-3 STORAGE PROHIBITIONS

- a. The Permittee shall comply with all applicable prohibitions on storage of restricted wastes specified in 40 CFR §268, Subpart E.
- b. Except as otherwise provided in 40 CFR §268.50, the Permittee may store restricted wastes in tanks and containers solely for the purpose of the accumulation of such quantities of hazardous wastes as necessary to facilitate proper recovery, treatment, or disposal provided that:
 - i. Each container is clearly marked to identify its contents and the date each period of accumulation begins; and
 - ii. Each tank is clearly marked with a description of its contents, the quantity of each hazardous waste received, and the date each period of accumulation begins, or such information for each tank is recorded and maintained in the operating records at that facility.

- iii. The Permittee may store restricted wastes for up to one (1) year unless the WV DEP, DWWWM, or its authorized agent, can demonstrate that such storage was not solely for the purpose of accumulating such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment, or disposal.
- iv. The Permittee may store restricted wastes beyond one (1) year; however, the Permittee bears the burden of proving that such storage was solely for the purpose of accumulating such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment, or disposal.
- v. The Permittee shall not store any liquid hazardous waste containing polychlorinated biphenyls (PCBs) at concentrations greater than or equal to 50 ppm unless the waste is stored in a storage facility that meets the requirements of 40 CFR §761.65(b). This waste must be removed from storage and treated or disposed as required by 40 CFR §268 within one (1) year of the date when such wastes are first put into storage. Condition I.M-3(iv) above, that allows storage for over one (1) year with specified demonstration, does not apply to PCB wastes prohibited under 40 CFR §268.32.